

73-29-203 Establishment of public recreational access.

- (1) Public recreational access is established if:
 - (a) the private property has been used by the public for recreational access requiring the use of the public water for a period of at least 10 consecutive years that begins after September 22, 1982; and
 - (b) the public use has been:
 - (i) continuous during the season conducive to the recreational access;
 - (ii) open and notorious;
 - (iii) adverse; and
 - (iv) without interruption.
- (2) The permissive use of a public water on private property granted by the owner is not an adverse use.
- (3)
 - (a) A property owner's overt act intended to interrupt uninvited recreational access is a sufficient interruption to restart any period of use that may have already begun under Subsection (1) if the evidence, taken as a whole, shows that the act came to the attention of the public or resulted in actual interruption.
 - (b) If an overt act is established in a final judgment to have interrupted recreational access, no other person may challenge the existence of the overt act in a subsequent action.
- (4) The extent and nature of the public recreational access permitted under Subsection (1) is determined by the nature of the historical recreational access during the 10 consecutive years required under Subsection (1).
- (5) When a public water is a lake, pond, or reservoir located on a natural stream and on private property, any portion that has been developed or protected for private hunting is not subject to public recreational access even though the remainder of the public water qualifies for public recreational access under this section.
- (6) A right of public recreational access on private property, established in accordance with this section, may not be closed without authorization of other law.

Enacted by Chapter 410, 2010 General Session